

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Case No.: 19-71697-ast

John Francis Vivenzio
dba Vivenzio Associates, LLC
dba Intelintix Software,

Chapter 13

Judge: Alan S. Trust

Debtor.

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OBJECTION TO CONFIRMATION OF PLAN

**TO: THE HONORABLE ALAN S. TRUST
UNITED STATES BANKRUPTCY JUDGE**

PLEASE TAKE NOTICE that Selene Finance, LP as servicer for NJCC-NYS CRF REO Subsidiary LLC (“Secured Creditor”), the holder of a mortgage on real property of the debtor(s), by and through its undersigned attorneys hereby objects to the confirmation of the Chapter 13 Plan on grounds including:

1. Secured Creditor is the holder of a Note and Mortgage dated June 11, 2004 in the original principal amount of \$332,500.00 with respect to debtor’s property located at 153 Quaker Path, E Setauket, NY 11733.
2. Debtor’s plan fails to provide for the treatment of the claim of Secured Creditor. The objecting creditor is due arrears of \$393,084.62 which will be set forth in a timely filed Proof of Claim. As the plan fails to provide for the outstanding arrears, Secured Creditor hereby objects to confirmation.
3. Debtor’s proposed plan fails to provide for on-going monthly post-petition payments to Secured Creditor.
4. Debtor’s proposed plan is not feasible as it lists the total amount to be paid to the trustee as only \$153,120.00.

5. Debtor seeks to modify the rights of Secured Creditor, which is the holder of a claim secured only by a security interest in real property that is the principal residence of the debtor. Secured Creditor hereby objects to any provision in the proposed plan which attempts to cramdown its secured claim.
6. Debtor's proposed plan fails to comply with other applicable provisions of Title 11.

In the event any portion of the claim is deemed to be an unsecured claim as defined by the Code, objection is hereby made pursuant to 11 U.S.C § 1325(a)(4) and 1325(b), et seq. unless the plan provides for full payment of the claim.

Dated: April 11, 2019
Garden City, New York

Respectfully submitted,

By: /s/ Richard Postiglione
Richard Postiglione, Esq
Friedman Vartolo, LLP
1325 Franklin Avenue, Suite 230
Garden City, NY 11530
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CERTIFICATE OF SERVICE

Debtor.

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I, Richard Postiglione, an attorney duly admitted to practice law before the District Courts of the State of New York, respectfully certify that I am not a party to this action, am over 18 years of age and reside in the State of New York. On April 11, 2019, I served the foregoing Objection to Confirmation by mailing the same in a sealed envelope, with postage paid thereon, in an official depository of the United States Post Office within the State of New York, addressed to the last known address of the addressee(s) as indicated below:

John Francis Vivenzio
153 Quaker Path
Setauket, NY 11733

Marianne DeRosa
Office of the Chapter 13 Trustee
100 Jericho Quadrangle
Suite 127
Jericho, NY 11753

United States Trustee
Long Island Federal Courthouse
560 Federal Plaza - Room 560
Central Islip, NY 11722-4437

/s/ Richard Postiglione
RICHARD POSTIGLIONE, ESQ.